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The question of whether publication of classified information is (1) a violation of law or (2) can result in successful prosecution is to be looked at in light of the essential elements of the crime as specified in the law. Basically these elements are

(1) giving information respecting the national defense to any person not entitled to receive it, and

(2) the act must be done "with intent or reason to believe that the information is to be used to the injury of the United States or to the advantage of any foreign nation."

As the law has been interpreted, the question of intent or reason to believe is a matter for the jury to determine. It has always been considered extremely difficult in the many cases of classified information revealed in the press to establish a case of intent or reason to believe.

In a recent check, the Department of Justice advised they do not know of any prosecution of a member of the press much less conviction. Part of the problem also lies in the fact that whether the information is properly classified, i. e., information respecting the national defense within the meaning of the statute is also up to the jury to determine. The consequence of this requirement is that in attempting to establish that an item of information is properly classified the Government is put in the position of revealing more information and confirming the truth of the very information which it is seeking to protect from disclosure. This is so because the effort to demonstrate to the jury that the information is classified must occur in open court.

Another practical difficulty will arise if the defense can show that similar information has already been published and thus is in the public domain. This showing would support the defense contention that there had been no violation of law. In the current situation the

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cumulative effect of the mass of facts set forth might be helpful in establishing that the authors were generally aware of the kind of information they had. This would tend to support the contention that they had reason to believe that publishing would be to the injury of the United States or to the advantage of a foreign nation.

Those items of information which we believe are still classified which have not been published elsewhere would be candidates for being labeled violations of law. There remains the practical problem of studying the entire case to see if there is sufficient evidence to warrant prosecution. This determination is the responsibility of the Department of Justice and we would work with them to be in a position to make a judgment on the further damage to security which might result from the prosecution.

Obviously there are other problems involved such as the basic problem of an attempted prosecution of members of the press corps or the publishers. A study of the case to date indicates that the chances of a successful prosecution are extremely remote. Nevertheless, the Department of Justice has consistently maintained over the years that they would like to attempt prosecution in a proper case in order to get some guidance from the courts for future cases.

The best candidates for prosecution as violations of law would be the new disclosures identified in this manuscript. The best examples of these would be

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KENNEDY IS GIVEN A SECRET BRIEFING BY DULLES OF C.I.A.

World Situation Discussed
in 2 1/2 Hours—Emphasis
Put on Cuba and Africa

By JOSEPH A. LORTUS
Special to The New York Times
HYANNIS PORT, Mass., July 24—Senator John F. Kennedy as briefed on the international situation today by Allen W. Dulles, director of the Central Intelligence Agency.
For two and a quarter hours the two men talked at the Senator's summer home, particularly about Cuba and the Congo and other African problems.
The Senator's position as Democratic nominee for President entitled him to this tour of Mr. Dulles's confidentially.
The same privilege will be assigned to Senator Lyndon B. Johnson of Texas, as nominee for Vice President.
Such secret information as he is still at Hyannis Port and was added to the Senator's knowledge about world events up to date next month will remain secret. But some time after the extra session provides guidance for his son of Congress begins Aug. 8 campaign utterances. During Mr. Dulles tried to reach with foreign policy and defense Senator Johnson in Mexico to

Major Robert's Discussion
That footing may be more restricted now than it was before. Some areas that Senator Kennedy had considered open for controversial discussion may now be foreclosed because the information makes them too sensitive for public political argument.
"Did you find it useful?" Senator Kennedy was asked afterward.
"I did," he replied. "The United States is faced with a good many serious problems around the world. Mr. Dulles has discussed them with me in detail, particularly the situation in Africa."
"The Congo?"
"Congo."
"Cuba?"
"Cuba."
"Brazil?"
"There was a general discussion of all of these matters, particularly the Congo."
Dulles Noncommittal
Mr. Dulles, asked to comment, said: "Senator Kennedy covered the situation very thoroughly. It is not my practice to give interviews."
Mr. Dulles would not say whether he had completed his talk with the Senator, or when he was returning to Washington. A Defense Department official will give Senator Kennedy a further briefing while he is still at Hyannis Port and Mr. Dulles will bring the Senator's knowledge about world events up to date next month.

KENNEDY IS GIVEN A C.I.A. BRIEFING

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arrange a briefing for him but was unable to do so.
The intelligence chief flew here this morning with two aides, James Brooke and Gates Lloyd, and two pilots in an Aero Commander that had the markings of a private plane. Mr. Brooke and Mr. Lloyd apparently had classified papers with them in two small hand cases.
Deploing Forces
The Kennedy high command began deploying the forces that have worked closely with the Senator during the primary campaigns and Democratic convention. Lawrence O'Brien of Springfield, Mass., left for Washington to take up his post as director of organization of the Democratic national committee.
Kenneth O'Donnell, who has worked with the Senator's brother, Robert, has also left to work with Mr. O'Brien.
Robert remained here for the talk on Monday morning with Mayor Wagner of New York. Then he will go to Washington for a few days and will go to New York Wednesday or Thursday for conversations with representative groups in New York state and city.

THE NEW YORK TIMES

24 July 1960



NOMINEE IS BRIEFED BY DULLES: Senator John F. Kennedy, Democratic candidate for President, with Allen W. Dulles, director of Central Intelligence Agency, at Hyannis Port, Mass. Mr. Dulles provided secret information on international problems.

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